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J. Alexander Marchosky

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EXAMINER

FRENEL, VANEL

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/910,190

Applicant(s)

MARCHOSKY, J. ALEXANDER

Examiner

Vanel Frenel

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 14-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 14-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Appeal Brief filed on 8/17/07. Claims 1-6 and 14-94 are pending

2. In view of the Appeal Brief filed on 8/17/07, PROSECUTION IS HEREBY REOPENED as set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 C.F.R 1.111 (if this Office action is non-final) or a reply under 37 C.F.R 1.113 (if this Office action is final); or

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplement appeal brief, but no new amendments, affidavits (37 C.F.R 1.130, 1.131 or 1.132) or other evidence are permitted. See C.F.R 1.193) (b) (2).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 and 14-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin et al (5,772,585), Besette (6263,330) in view of Wilkins (6,523,009) and further in view of Schoenberg (6,463,417).

(A) As per claim 1, Lavin discloses an automated, patient-controlled, medical and biographical records system (See Lavin, Col.7, lines 12-46) comprising:

a. a central computer connected to a global computer network (See Lavin, Col.4, lines 32-42);

b) a centralized medical and biographical records database maintained at the central computer, said database including medical and biographical records for a plurality of individual patients (See Lavin, Figs.22-24, Col.7, lines 15-25), said central computer executing a security program limiting access the records to the patients and to health care professionals selectively authorized by the patients (See Lavin, Col.5, lines 41-43);

d) one or more health care computers situated remotely from the central computer and connected to the global network, said health care computers each executing a software program interface for the authorized health care professionals to access the medical history and biographical information from the patient medical and biographical records database and to input additional patient medical history and biographical information into the patient medical and biographical records database (See Lavin, Col.5, lines 1-56; Col.15, lines 1-58).

Lavin does not explicitly disclose that the medical records system having one or more patient computers situated remotely from the central computer and connected to

the global network, said patient computers each executing a software program interface for patients to input medical history and biographical information into the patient medical and biographical records database and to authorize health care professionals to access at least a portion of the records of the authorizing patients.

However, this feature is known in the art, as evidenced by Bessette. In particular, Bessette suggests that the medical records system having one or more patient computers situated remotely from the central computer and connected to the global network, said patient computers each executing a software program interface for patients to input medical history and biographical information into the patient medical and biographical records database and to authorize health care professionals to access at least a portion of the records of the authorizing patients (See Bessette, Col.17, lines 1-27).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Bessette within the system of Lavin with the motivation of providing a suitable reader to extract the information contained therein and then to process the information accordingly, such as by remotely accessing and importing the data pointed to by the pointer (s) (See Bessette, Col.4, lines 63-67).

As best understood, Lavin, Bessette, Wilkins do not explicitly disclose that the automated patient-controlled having "access to each of said medical and biographical records in the database being controlled by the corresponding individual patient of said plurality of patients".

However, this feature is known in the art, as evidenced by Bessette. In particular, Bessette suggests the automated patient-controlled having "access to each of said medical and biographical records in the database being controlled by the corresponding individual patient of said plurality of patients" (See Fig.2, Col.4, lines 52-67 to Col.5, line 25 especially line 15-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature Schoenberg within the collective teachings of Lavin, Bessette and Wilkins with the motivation of enabling the patient to control how much access to his or her medical records a particular medical care provider has, by selecting the access codes that are provided to the care provider (See Schoenberg, Col.2, lines 36-39).

(B) As per claim 2, Lavin discloses the medical and biographical records system wherein the security program includes a routine permitting a patient to limit the extent and type of information in the patient's record that authorized health care professionals may access (See Lavin, Col.7, lines 47-67).

(C) As per claim 3, Lavin discloses the medical and biographical records system of claim wherein the security program is responsive to the patient selectively limiting the extent and type of information that the authorized health care professional may access based upon relevancy of the information to the specialty of the health care professional (See Lavin, Col.8, lines 39-67).

(D) As per claim 4, Lavin discloses the medical and biographical records system wherein the security program is responsive to the patient selectively limiting the extent and type of information based upon a degree of confidentiality assigned by the patient to the different medical and biographical information stored in the patient's record for limiting access of the health care professionals to the information (See Lavin, Col.8, lines 39-67).

(E) As per claim 5, Lavin discloses the medical and biographical records system wherein the security program identifies and records all inquiries to access records in the medical and biographical records database (See Lavin, Col.7, lines 13-46).

(F) As per claim 6, Lavin discloses the medical and biographical records system wherein the security program identifies and records the health care professionals or patients who enter and store new information in the medical and biographical records database (See Lavin, Col.8, lines 39-67).

(G) As per claim 14, Lavin discloses a method for entering and retrieving patient medical and biographical record information comprising the steps of:

a. maintaining medical, biographical, and security information for a plurality of individual patient records in a medical and biographical records database on a centralized computer (See Lavin, Col.5, lines 1-56; Col.15, lines 1-58);

d. executing a security program limiting access to the medical and biographical records database to the individual patients inputting medical and biographical information into their own records and health care professionals selectively authorized by the patients to input additional medical and biographical information the patients' records (See Lavin, Col.5, lines7-67); and

e. executing a security program limiting access to the medical and biographical records database to the individual patients retrieving medical and biographical information from their own records and to the health care professionals selectively authorized by the patients (See Lavin, Col.15, lines 1-58).

Lavin does not explicitly disclose that the method having inputting patient medical and biographical information in the medical and biographical records database through a computer remotely situated from the centralized computer;

inputting patient medical and biographical records security information in the medical and biographical records database through the computer remotely situated from the centralized computer.

However, this feature is known in the art, as evidenced by Bessette. In particular, Bessette suggests that the method having inputting patient medical and biographical information in the medical and biographical records database through a computer remotely situated from the centralized computer (See Bessette, Col.7, lines 1-51);

inputting patient medical and biographical records security information in the medical and biographical records database through the computer remotely situated from the centralized computer (See Bessette, Col.7, lines 1-51).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Bessette within the system of Lavin with the motivation of providing a suitable reader to extract the information contained therein and then to process the information accordingly, such as by remotely accessing and importing the data pointed to by the pointer (s) (See Bessette, Col.4, lines 63-67).

As best understood, Lavin, Bessette, Wilkins do not explicitly disclose that the automated patient-controlled having "access to each of said medical and biographical records in the database being controlled by the corresponding individual patient of said plurality of patients".

However, this feature is known in the art, as evidenced by Bessette. In particular, Bessette suggests the automated patient-controlled having "access to each of said medical and biographical records in the database being controlled by the corresponding individual patient of said plurality of patients" (See Fig.2, Col.4, lines 52-67 to Col.5, line 25 especially line 15-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature Schoenberg within the collective teachings of Lavin, Bessette and Wilkins with the motivation of enabling the patient to control how much access to his or her medical records a particular medical care provider has, by selecting the access codes that are provided to the care provider (See Schoenberg, Col.2, lines 36-39).

(H) As per claim 20, Besette discloses the method wherein the patient medical and biographical information is information selected from the group of patient social history (See Besette, Col.7, lines 29-41).

The motivation for combining the respective teachings of Lavin, Besette, Wilkins and Schoenberg are as discussed above in claims 1, 7 and 14, and incorporated herein

(I) As per claim 21, Besette discloses the method further comprising the step of assigning a degree of confidentiality by the patient to the different medical information stored in the patient's record, and wherein the step of selectively limiting the extent and type of information includes further limiting the extent and type of information that authorized health care professionals may access based upon the assigned degree of confidentiality (See Besette, Col.16, lines 30-49).

The motivation for combining the respective teachings of Lavin, Besette, Wilkins and Schoenberg are as discussed above in claims 1, 7 and 14, and incorporated herein

(J) As per claim 22, Lavin discloses the method further comprising the step of storing potential medical diagnoses, the option of the patient, to the patient's medical and biographical record stored on the central computer (See Lavin, Col.8, lines 39-67).

(K) As per claim 23, Lavin discloses the method wherein medical and biographical information is retrieved and utilized by insurance providers to provide insurance services (See Lavin, Col.7, lines 25-46).

(L) As per claim 24, Lavin discloses the method wherein the insurance services are selected from the group consisting of terms of insurance contracts, explanation of benefits and services, pre-approval of patient services, pre-approval of treatment, approval of treatment, verification of eligibility for medical treatment, verification of treatment, and automated payment of medical treatment (See Lavin, Col.9, lines 29-40).

(M) As per claim 25, Lavin discloses the method wherein the information is retrieved and utilized by a computer and wherein the computer determines whether an insurance claim should be either accepted or rejected (See Lavin, Col.7, lines 25-46).

(N) As per claim 26, Lavin discloses the method wherein the a third party intermediary possesses an insurance provider's policy criteria, compares the criteria to a patient's medical and biographical record, and determines whether an insurance claim should be either accepted or rejected (See Lavin, Col.7, lines 25-46).

(O) As per claim 27, Lavin discloses the method wherein the information is retrieved and utilized by a third party computer and wherein the third party computer determines whether an insurance claim should be either accepted or rejected (See Lavin, Col.7, lines 25-46).

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(P) As per claim 28, Lavin discloses the method further comprising: maintaining insurance services wherein the services are selected from the group consisting of terms of insurance contracts, explanation of benefits and services, pre-approval of patient services, pre-approval treatment, approval treatment, verification eligibility for medical treatment, verification of treatment, and automated payment of medical treatment; comparing the patient diagnosis and prescribed services or treatment records with approved therapeutic treatment for the identified diagnosis; and approving or disapproving payment for the prescribed services or treatments (See Lavin, Col.9, lines 29-40).

(Q) As per claim 29, Lavin discloses the method further comprising maintaining health care coverage information for individual patients identifying patient contribution requirements;

b. maintaining health care coverage information for individual patients identifying insurer contribution requirements (See Lavin, Col.7, lines 25-46);

maintaining financial accounts for health care premiums and payment of health care treatments (See Lavin, Col.9, lines 19-40);

d. paying health care provider for approved services or treatments (See Lavin, Col.9, lines 19-40); and

billing patient and insurer according to their contribution proportions (See Lavin, Col.9, lines 19-40).

(R) As per claim 30, Lavin discloses the method further comprising financially managing accounts in a manner that produce financial benefits to the patient (See Lavin, Col.9, lines 19-40).

(S) As per claim 31, Lavin discloses the method wherein the financial benefits are selected from the group consisting of accrued interest, purchasing of additional insurance, and dividends (See Lavin, Col.15, lines 12-25).

(T) As per claim 32, Lavin discloses the method wherein the insurer is the patient's employer or an insurance company (See Lavin, Col.7, lines 25-46).

5. Claims 33-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavin et al (5,772,585), Bessette (6263,330), Iliff (6,849,045) in view of Wilkins (6,523,009) as applied to claims 1-32 above, and further in view of Schoenberg (6,463,417).

(A) As per claims 33, 47 and 49, Lavin discloses the method further comprising the following steps :

b . storing said diagnostic questions on a central computer connected to a global computer network (See Lavin, Col.4, lines 32-59);

d . providing a software program interface accessible by computers situated remotely from the central computer, said interface interactively displaying to patients a

series of the diagnostic questions stored on the central computer (See Lavin, Col.8, lines 9-58);

e . retrieving patient responses to the diagnostic questions and correlating the patient responses to a list of potential diagnoses as a function of the input responses to the medical diagnostic questions and the relative weight of the medical diagnostic questions ; and

f. providing the list of potential medical diagnoses to the patient via the computer network and remote computer (See Bessette, Col.7, lines 1-51).

Lavin and Bessette do not explicitly disclose that the method having creating a plurality of diagnostic questions relating to medical signs and symptoms requiring either a " yes" or a "no" response from a patient;

differentially weighting the diagnostic questions and responses according to their relative importance in determining a medical diagnosis.

However, this feature is known in the art, as evidenced by Bessette. In particular, Bessette suggests that the method having creating a plurality of diagnostic questions relating to medical signs and symptoms requiring either a " yes" or a "no" response from a patient (See Iliff, Col.62, lines 23-67 to Col.63, line 45);

differentially weighting the diagnostic questions and responses according to their relative importance in determining a medical diagnosis (See Iliff, Col.65, lines 31-67).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature of Iliff within the collective teachings of Lavin and Bessette with the motivation of providing a group of registered pharmacists answers

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questions about medications for the "1-900" pharmaceutical service (See Iliff, Col.3, lines 5-14).

As best understood, Lavin, Bessette, Wilkins do not explicitly disclose that the automated patient-controlled having "access to each of said medical and biographical records in the database being controlled by the corresponding individual patient of said plurality of patients".

However, this feature is known in the art, as evidenced by Bessette. In particular, Bessette suggests the automated patient-controlled having "access to each of said medical and biographical records in the database being controlled by the corresponding individual patient of said plurality of patients" (See Fig.2, Col.4, lines 52-67 to Col.5, line 25 especially line 15-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature Schoenberg within the collective teachings of Lavin, Bessette and Wilkins with the motivation of enabling the patient to control how much access to his or her medical records a particular medical care provider has, by selecting the access codes that are provided to the care provider (See Schoenberg, Col.2, lines 36-39).

(B) As per claim 34, Lavin discloses the method further comprising storing potential medical diagnoses, at the option of the patient, to the patient's medical and biographical record stored on the central computer (See Lavin, Col.8, lines 39-67).

(C) As per claim 35, Iliff discloses the method further comprising providing a health care professional with the patients list of potential medical diagnoses at the patient's request (See Iliff, Col.52, lines 1-67).

(D) As per claim 36, Lavin discloses the method wherein the security program limits access to the medical and biographical records database to health care providers inputting or retrieving medical and biographical information into their own patient records and to health care professionals selectively authorized by the health care provider to input additional medical and biographical information to the patient records (See Lavin, Col.8, lines 39-67).

(E) Claims 47 and 49 recite the same limitations as claim 33 are therefore rejected for the same reasons given above in claim 33, and incorporated herein.

(F) As per claim 50, Lavin discloses the method further comprising the step of storing potential medical diagnoses, the option of the patient, to the patient's medical and biographical record stored on the central computer (See Lavin, Col.8, lines 39-67).

(G) As per claim 51, Iliff discloses the method further comprising the step of identifying a relative likelihood for each listed potential diagnosis based upon the responses and the relative weight of the questions (See Iliff, Col.65, lines 31-67).

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(H) As per claim 52, Iliff discloses the method wherein the responses to the questions are weighted based on data acquired from one or more of the patient's organ system medical history, social history, family history, genealogy history, genetic constitution, laboratory and imaging tests, medications, and surgical therapies (See Iliff, Col.51, lines 55-65).

(I) As per claim 53, Bessette discloses the method further comprising the steps of collecting patient health data via sensors connected to the remotely situated computers and correlating the patient health data to potential diagnoses as a function of the collected patient health data, responses to the medical diagnostic questions, and the relative weight of the medical diagnostic questions, wherein the patient health data is selected from the group consisting of anatomical, biochemical, physiological, pathological data and a combination thereof (See Bessette, Col.12, lines 18-67).

(J) As per claim 54, Iliff discloses the method further comprising the step of generating images illustrating the physical location of medical condition and limitations of function resulting from the medical condition wherein the generated images are selected from the group consisting of three-dimensional images, holographic images, diagrams, models, pictures and illustrations (See Iliff, Col.8, lines 44-56; Col.24, lines 56-63).

(K) As per claim 55, Iliff discloses the method further comprising the steps of identifying the location of a medical condition and correlating the location to a list of potential diagnoses as a function of the location, the responses to the medical diagnostic questions, and the relative weight of the medical diagnostic questions (See Iliff, Col.65, lines 31-67).

(L) As per claim 56, Iliff discloses the method further comprising the steps of:

a. collecting patient health data via sensors connected to the remotely situated computers (See Iliff, Col.9, lines 21-67);

b. storing the collected patient health data to memory to form a library of patient data records measured over time (See Iliff, Col.22, lines 47-67);

c. comparing the collected patient health data to the library of patient health data records (See Iliff, Col.23, lines 25-67; and

correlating any variation between the collected patient health data and the library of patient health data records, the degree of variation between the collected patient health data and the library of patient health data records, responses to the medical diagnostic questions, and the relative weight of the medical diagnostic questions to potential diagnoses (See Iliff, Col.63, lines 23-67; Col.65, lines 25-67).

(M) As per claim 57, Iliff discloses the method wherein the patient health data is selected from the group consisting of anatomical, biochemical, physiological and pathological data (See Iliff, Col.23, lines 53-67).

(N) As per claim 58, Lavin discloses the method, wherein the patient data is selected from the group consisting of heart rate, blood pressure, EKGs, EEGs, respiratory rate, temperature, metabolic profiles, organ system function tests, anatomical data, biochemical data, physiological data, pathological data, laboratory data, and radiologic and imaging data (See Lavin, Col.13, lines 1-8).

(O) As per claim 59, Iliff discloses the method further comprising the steps
a. collecting patient health data via sensors connected to the remotely situated computers (See Iliff Col.9, lines 21-67);

b. comparing the collected patient health data to a library of stored health data
See Iliff, Col.22, lines 47-67); and

c. correlating the degree to which the collected patient health data is related to the stored health data, responses to the medical diagnostic questions, and the relative weight of the medical diagnostic questions to potential diagnoses (See Iliff, Col.63, lines 23-67; Col.65, lines 25-67);

wherein the health data is data selected from the group consisting of anatomical, biochemical, physiological, pathological data and a combination thereof (See Iliff, Col.23, lines 53-67).

(P) As per claim 60, Lavin discloses the method further comprising the steps of

providing a list of therapeutic recommendations to treat the diagnosed condition (See Lavin, Col.13, lines 60-67 to Col.14, line 36).

(Q) As per claim 61, Iliff discloses the method further comprising:
selecting a therapy from the list of therapeutic recommendations (See Iliff, Col.14, lines 61-67 to Col.15, line 8);
b. storing the selected therapy to a patient's medical and biographical record (See Iliff, Col.20, lines 56-67 to Col.21, line 36); and
providing a predicted patient outcome in response to the selected therapy (See Iliff, Col.20, lines 56-67 to Col.21, line 36).

(R) As per claim 62, Lavin discloses the method further comprising the steps of receiving actual patient outcome data in response to the selected therapy and storing the actual patient outcome data to a patient medical and biographical record (See Lavin, Col.15, lines 13-58).

(S) As per claim 63, Lavin discloses the method further comprising the step of providing to the patient referral information of one or more health care professionals or institutions who have identified themselves as being able to treat individuals having the same or similar conditions as those identified by the list of potential medical diagnoses (See Lavin, Col.15, lines 13-58).

(T) As per claim 64, Lavin discloses the method further comprising the step of providing the patient with information rating the referred health care professionals institutions in treating the same or similar conditions as those identified by the list of potential medical diagnoses (See Lavin Col.15, lines 13-58).

(U) As per claim 65, Lavin discloses the method further comprising providing the patient with referral information for one or more insurance providers (See Lavin, Col.15, lines 13-25).

(V) As per claim 66, Lavin discloses the method, further comprising providing the patient with insurance provider registration information (See Lavin, Col.15, lines 13-25).

(W) As per claim 67, Lavin discloses the method further comprising the step of providing the patient with information rating the coverage provided by the referred insurance providers in covering health care expenses (See Lavin, Col.9, lines 19-57).

(X) Claim 68 differs from claims 1, 7, 14 and 49 by reciting a health care finance and insurance method.

As per this limitation, Lavin discloses comprising:

maintaining medical, biographical, diagnostic, and treatment records for a plurality of individual patients in a medical and biographical records database on a centralized computer (See Lavin, Col.4, lines 32-59);

b. maintaining insurance services wherein the services are selected from the group consisting of terms of insurance contracts, explanation of benefits and services, pre-approval of patient services, pre-approval of treatment, approval of treatment, verification of eligibility for medical treatment, verification of treatment, and automated payment of medical treatment (See Lavin, Col.9, lines 29-40); comparing the patient diagnosis and prescribed services or treatment records with approved therapeutic treatment for the identified diagnosis (See Bessette, Col.12, lines 51-67 to Col.13, line 38) and Iliff discloses approving or disapproving payment for the prescribed services or treatment (See Iliff, Col.1, lines 48-53; Col.26, lines 50-65).

Lavin, Bessette, Iliff and Wilkins do not explicitly disclose restricting access to each of said medical, biographical, diagnostic and treatment records in the database to the patients to whom the records relate and to individuals and institutions selectively authorized by the patients.

However, this feature is known in the art, as evidenced by Schoenberg. In particular, Schoenger suggests that the healthcare having restricting access to each of said medical, biographical, diagnostic and treatment records in the database to the patients to whom the records relate and to individuals and institutions selectively authorized by the patients (See Fig.2, Col.4, lines 52-67 to Col.5, line 25 especially line 15-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the feature Schoenberg within the collective teachings of Lavin, Bessette and Wilkins with the motivation of enabling the patient to control how

much access to his or her medical records a particular medical care provider has, by selecting the access codes that are provided to the care provider (See Schoenberg, Col.2, lines 36-39).

(Y) As per claim 69, Iliff discloses the health care finance and insurance method.
further comprising:

maintaining health care coverage information for individual patients identifying patient contribution requirements (See Iliff, Col.22, lines 46-67);

b. maintaining health care coverage information for individual patients identifying insurer contribution requirements (See Iliff, Col.26, lines 50-65);

maintaining financial accounts for health care premiums and payment of health care treatments(See Iliff, Col.26, lines 50-65);

d. paying health care provider for approved treatments(See Iliff, Col.26, lines 50-65); and

billing patient and insurer according to their contribution proportions (See Iliff, Col.26, lines 10-65).

(Z) As per claim 70, Lavin discloses the health care finance and insurance method further comprising financially managing accounts in a manner that produce financial benefits to the patient (See Lavin, Col.9, lines 19-40).

(AA) As per claim 71, Lavin discloses the method wherein the financial benefits are

selected from the group consisting of accrued interest, purchasing of additional insurance, and dividends (See Lavin Col.15, lines 12-25).

(BB) As per claim 72, Lavin discloses the method wherein the insurer is the patient's employer or an insurance company (See Lavin, Col.7, lines 25-46).

(CC) As per claim 73, Wilkins discloses the medical and biographical records system of claim 1, wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the patient and comparing the reading to an historical reading (See Wilkins, Col.6, lines 1-24).

(DD) As per claim 74, Wilkins discloses the medical and biographical records system of claim 73, wherein the biometric indicator is selected from a group of indicators consisting of a fingerprint, a retinal image, an ocular image, a voice pattern, a DNA print, a biochemical type, and a blood type (See Wilkins Col.6, lines 1-24).

The motivation for combining the respective teachings of Lavin, Bessette, Illiff, Wilkins and Schoenberg are as discussed in the rejection of claim 68, and incorporated herein.

(EE) As per claim 75, Wilkins discloses the medical and biographical records system of wherein access to each of said medical and biographical records in the database is at

least partially ensured by obtaining a biometric indicator reading from the health care professional and comparing the reading to an historical reading (See Wilkins, Col.6, lines 6-49).

The motivation for combining the respective teachings of Lavin, Bessette, Illiff and Wilkins are as discussed in the rejection of claim 68, and incorporated herein.

(FF) As per claim 76, Wilkins discloses the method wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the patient and comparing the reading to an historical reading (See Wilkins, Col.6, lines 6-49).

(GG) As per claim 77, Wilkins discloses the method wherein the biometric indicator is selected from a group of indicators consisting of a fingerprint, a retinal image, an ocular image, a voice pattern, a DNA print, a biochemical type, and a blood type (See Wilkins Col.6, lines 1-24).

(HH) As per claim 78, Wilkins discloses the method wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the health care professional and comparing the reading to an historical reading (See Wilkins, Col.6, lines 6-49).

(II) As per claim 79, Wilkins discloses the method wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the patient and comparing the reading to an historical reading (See Wilkins, Col.6, lines 6-49).

(JJ) As per claim 80, Wilkins discloses the method wherein the biometric indicator is selected from a group of indicators consisting of a fingerprint, a retinal image, an ocular image, a voice pattern, a DNA print, a biochemical type, and a blood type (See Wilkins Col.6, lines 1-24).

(KK) As per claim 81, Wilkins discloses the method wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the health care professional and comparing the reading to an historical reading (See Wilkins Col.6, lines 6-49).

(LL) As per claim 82, Wilkins discloses the method wherein access to each of said medical, biographical, diagnostic and treatment records in the database is at least partially ensured by obtaining a biometric indicator reading from the patient and comparing the reading to an historical reading (See Wilkins Col.6, lines 6-49).

The motivation for combining the respective teachings of Lavin, Bessette and Wilkins are as discussed in the rejection of claims 1, 49 and 68, and incorporated herein.

(MM) As per claim 83, Wilkins discloses the method wherein the biometric indicator is selected from a group of indicators consisting of a fingerprint, a retinal image, an ocular image, a voice pattern, a DNA print, a biochemical type, and a blood type (See Wilkins Col.6, lines 1-24).

(NN) As per claim 84, Wilkins discloses the method wherein access to each of said medical and biographical records in the database is at least partially ensured by obtaining a biometric indicator reading from the health care professional and comparing the reading to an historical reading (See Wilkins Col.6, lines 6-49).

(OO) As per claim 85, Wilkins discloses the medical and biographical records system wherein the security program permits patients to selectively authorize medical and biographical information to be shared between primary and specialist health care professionals (See Wilkins, Col.2, lines 9-19).

(PP) As per claim 86, Wilkins discloses the medical and biographical records system wherein the patient medical and biographical information is information selected from the group consisting of patient genetic history, patient social history, patient mental and emotional health history, patient surgical history, patient environmental history, patient dental and oral health history, patient laboratory results, patient radiological and imaging history, patient organ system history, treatment and medication history, patient otologic

and ophthalmological history, and anatomical, biochemical, physiological, pathological, and genetic histories (See Wilkins, Col.5, lines 49-65).

(QQ) As per claim 87, Schoenberg discloses the medical and biographical records system wherein the security program permits the patient to assign a degree of confidentiality to the different medical information stored in the patient's record, and the security program selectively limits the extent and type of information that authorized health care professionals may access based upon the assigned degree of confidentiality (See Schoenberg, Fig.2, Col.4, lines 52-67 to Col.5, line 25).

(RR) As per claim 88, Wilkins discloses the medical and biographical records system wherein at the patient's medical and biographical record selectively includes potential medical diagnoses at the option of the patient (See Wilkins, Col.6, lines 25-37).

(SS) As per claim 89, Wilkins discloses the medical and biographical records system wherein medical and biographical information is retrievable by insurance providers to provide insurance services (See Wilkins, Col.2, lines 19-33).

(TT) As per claim 90, Wilkins discloses the medical and biographical records system wherein medical and biographical information is retrievable by a third party intermediary possessing an insurance provider's policy criteria for comparing the criteria to a patient's

medical and biographical record and determining whether an insurance claim should be accepted or rejected (See Wilkins, Col.2, lines 23-26).

(UU) As per claim 91, Wilkins discloses the medical and biographical records system wherein said central computer executing a diagnostic program that creates a plurality of diagnostic questions relating to medical signs and symptoms requiring either a "yes- or a "no" response from a patient, stores said diagnostic questions on a central computer, differentially weights the diagnostic questions and responses according to their relative importance in determining a medical diagnosis, provides a software program interface accessible by computers situated remotely from the central computer, said interface interactively displaying to patients a series of the diagnostic questions stored on the central computer, retrieves patient responses to the diagnostic questions and correlates the patient responses to a list of potential diagnoses as a function of the input responses to the medical diagnostic questions and the relative weight of the medical diagnostic questions, and provides the list of potential medical diagnoses to the patient via the computer network (See Wilkins, Col.4, lines 27-45).

(VV) As per claim 92, Wilkins discloses the medical and biographical records system wherein the diagnostic program stores potential medical diagnoses, at the option of the patient, to the patient's medical and biographical record (See Wilkins, Col.4, lines 27-52).

(WW) As per claim 93, Wilkins discloses the medical and biographical records system, wherein the diagnostic program provides a health care professional with the patients list of potential medical diagnoses at le patient's request (See Wilkins, Col.4, lines 53-67).

(XX) As per claim 94, Wilkins discloses the medical and biographical records system wherein the security program limits access to the medical and biographical records database to health care providers inputting or retrieving medical and biographical information into their own patient records and to health care professionals selectively authorized by the health care provider to input additional medical and biographical information to the patient records (See Wilkins, Col.6, lines 25-40).

(YY) Claims 37-46 recite the underlying process of the elements of claims 2-6, 8-12, 15-19, 22-34 and 47-50, and respectively. As the various elements of claims 2-6, 8-12, 15-19, 22-34 and 47-50 have been shown to be either disclosed by or obvious in view of the collective teachings of Lavin, Bessette, Iliff, Wilkins and Schoenberg, it is readily apparent that the method recited in claims 37-46 are rejected for the same reasons given above for systems claims 2-6, 8-12, 15-19, 22-34 and 47-50, and incorporated herein.

Response to Arguments

6. Applicant's arguments filed on 8/17/07 with respect to claims 1-6 and 14-94 have been considered but are moot in view of the new ground(s) of rejection. Applicant's

arguments will be addressed in the order in which they appear in the response filed on 8/17/07.

(A) At pages 5-13 of the 8/17/07 response, Applicant argues that the features in the 8/17/07 amendment are not taught by or suggested by the applied references.

In response, all of the limitations which Applicant disputes as missing in the applied references, including the features discussed in the Appeal Brief filed on 8/17/07, have been fully addressed by the Examiner as either being fully disclosed or obvious in view of the collective teachings of Lavin, Bessette, Illiff, Wilkins and/or Schoenberg based on the logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention, as detailed in the remarks and explanations given in the preceding sections of the Office Action, and incorporated herein. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981), *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In addition, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference, nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not the applied art teaches patient-controlled medical information system and method (6,988,075).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zeender Ryan Florian can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Vanel Frenel

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November 6, 2007